

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO:

PBM Bellwether Cases

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**JOINT MOTION TO AMEND CERTAIN CASE MANAGEMENT ORDER DEADLINES
FOR PBM BELLWETHER CASES**

Plaintiffs and the PBM Defendants jointly move the Court to enter the Proposed Order Amending Certain PBM Case Management Order Deadlines attached as Exhibit A. In support of this motion, the parties state as follows:

Search Terms

Tracks 12 and 13 Plaintiffs and the PBM Defendants proposed search terms in compliance with the original CMO deadlines set forth in the Court's December 28, 2023 Order (Dkt. No. 5282), and have exchanged redlines of the respective search terms. To allow additional time to complete search term negotiations, the parties jointly propose the following extensions:

- The parties will finalize search term negotiations for Tracks 12 and 13 Plaintiffs and the PBM Defendants by **April 9, 2024**.
- Tracks 12 and 13 Plaintiffs and the PBM Defendants will raise any search term disputes for resolution by **April 12, 2024**.

Custodians

Tracks 12 and 13 Plaintiffs and the PBM Defendants have proposed custodians, and have begun to engage in a back and forth process to facilitate the selection of appropriate custodians. Tracks 12 and 13 Plaintiffs and the PBM Defendants have agreed to work together in good faith, and to accommodate reasonable requests for information about individuals who may be appropriate custodians. In an effort to allow the collaborative process to continue so that the parties may select appropriate custodians, and to ensure that the production of custodial documents can begin as scheduled, the parties have agreed to select custodians on a rolling basis as follows:

- On or about **March 25, 2024**, Plaintiffs may identify up to 10 custodians from each PBM Defendant.
- On or about **March 25, 2024**, the PBM Defendants may identify up to 10 custodians from each of the Tracks 12 and 13 Plaintiffs.
- Every two weeks thereafter, Plaintiffs may identify up to 10 additional custodians from each PBM Defendant and the PBM Defendants may identify up to 10 additional custodians from each of the Track 12 and 13 Plaintiffs.
- The party of whom custodial files are requested maintains the right to object to any requested custodian.
- The parties agree that once the parties have received sufficient information to finish their selection of custodians, the bi-weekly selection process may no longer be necessary. Additional custodians will then be selected in a comprehensive manner.
- Disputes over custodians may be raised to the Special Master for resolution.

Respectfully submitted,

Dated: April 3, 2024

/s/ Jeff R. Gaddy

Jeff R. Gaddy
Levin, Papantonio, Rafferty, Buchanan,
O'Brien, Barr, and Mougey, P.A.
316 S. Baylen Street, Suite 600
Pensacola, FL 32502-5996
Tel.: 850-435-7068
Fax: 850-436-6068
jgaddy@levinlaw.com

Attorney for Plaintiffs

/s/ Jonathan G. Cooper

Jonathan G. Cooper
Quinn Emanuel Urquhart & Sullivan, LLP
1300 I St. NW, Suite 900
Washington, DC 20005
Tel: (202) 538-8000
jonathancooper@quinnemanuel.com

*Attorney for Express Scripts, Inc., Express
Scripts Administrators, LLC, Express Scripts
Specialty Distribution Services, Inc., Express
Scripts Pharmacy, Inc., ESI Mail Pharmacy
Service, Inc., ESI Mail Order Processing,
Inc., Medco Health Solutions, Inc., and
Evernorth Health, Inc.*

/s/ Brian D. Boone

Brian D. Boone
ALSTON & BIRD LLP
Vantage South End
1120 South Tryon Street, Suite 300
Charlotte, NC 28203
Tel.: (704) 444-1000
brian.boone@alston.com

William H. Jordan
ALSTON & BIRD LLP
1201 West Peachtree Street NW, Suite 4900
Atlanta, GA 30309
Tel.: (404) 881-7000
bill.jordan@alston.com

Attorney for OptumRx, Inc.